

REMARKS

Reconsideration of this application is respectfully requested in view of the foregoing amendment and the following remarks.

Claims 1-7 were pending in this application. In this Amendment, Applicant has canceled claims 1-7 and added new claims 8-19. No new matter has been added. Accordingly, claims 8-19 will be pending after entry of this Amendment.

In the Office Action mailed May 30, 2008, the Examiner rejected claims 1-7 under 35 U.S.C. § 112, ¶ 2, as indefinite for reciting terms that lack sufficient antecedent basis. The Examiner also rejected claims 1-7 under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,359,265 to Thorne, Jr. et al. ("Thorne") and U.S. Patent No. 5,356,420 to Czernicki et al. ("Czernicki"). To the extent those rejections might still be applied to the currently pending claims, Applicant respectfully traverses the rejections.

35 U.S.C. § 112, ¶ 2

Regarding the § 112 rejections, Applicant has canceled claims 1-7 and drafted new claims 8-19 with any eye toward addressing the insufficient antecedent basis noted by the Examiner. Applicant therefore respectfully submits that new claims 8-19 comply with § 112 and requests withdrawal of the § 112 rejections.

35 U.S.C. § 103(a)

Regarding the § 103 rejections, Applicant has canceled claims 1-7 without prejudice to or disclaimer of the subject matter thereof, and in their place, has added new claims 8-19 to more clearly recite features distinguishable over Thorne and Czernicki. In the first instance, Applicant notes that the new claims clarify the at least one return spring that was recited in the original

claims 1-7, and which Thorne plainly lacks. At page 3 of the Office Action, the Examiner appeared to broadly construe “spring” to be any elastic device, without acknowledging the modifying term “return” and the meaning of that modifying term intended by the Applicant. New claim 8 clarifies that meaning by reciting that the at least one return spring acts against the at least one side jut in a direction generally opposite to the driving direction, *i.e.*, to return a lancet of the puncturing needle to within the housing.

The “spring” 420 of Thorne identified by the Examiner lacks this configuration and function. Indeed, that part 420 is described as a blade shield part 420 that combines with another blade shield part 430 to enclose and protect a blade 90'. (Col. 9, lines 34-40.) During operation, the blade shield parts 420, 430 are forced apart by action of hub 352 against facing surfaces 434 and 436, until the hub 352 is released and the lancet blade 90' is driven outside of the housing 300. (Col. 10, lines 35-41.) After the needle is deployed, the blade shield parts 420, 430 serve no further function. Indeed, Thorne specifically teaches that, at the end of the lancing cycle, the driving spring 350 (which is integrally connected to the blade 90') recoils to retract blade 90' into the housing 300, as shown in Figure 20 of Thorne. Therefore, the driving spring 350 – *not* the blade shield parts 420, 430 – return the blade 90' to the inside of the housing 300. Thus, Thorne fails to teach or suggest at least the feature of the at least one return spring acting against the at least one side jut in a direction generally opposite to the driving direction, as recited in new claim 8.

Applicant therefore respectfully submits that new independent claim 8 is patentable over the applied prior art. Applicant further respectfully submits that new dependent claims 9-19 are

also patentable due at least to their dependence on an allowable base claim and for the additional features recited therein.

Regarding those additional features, for example, new claim 13 recites that the pusher contacts the puncturing needle during operation of the puncturing device, and separates from the puncturing needle after use. Support for new claim 13 can be found in the present application, for example, in Figures 2 and 3 and at page 4, lines 9-10 and page 5, lines 4-7. In contrast, in Thorne, the spring 350, the hub 352 (which the Examiner regarded as the recited pusher), and the needle 90' are all one piece. (*See, e.g.*, Figure 23.)

New claim 14 recites that the pusher has a cup-shaped end and that the puncturing needle has a projection that fits within the cup-shaped end of the pusher, as shown in Figure 3, for example.

New claims 17 and 18 recite further features of the driving spring, puncturing needle, and return spring during operation, support for which can be found in the present application, for example, in Figures 2-4 and at page 4, line 20 to page 5, line 7 of the specification.

New claim 19 recites that the arms are integral to the push button, as shown in Figure 1, for example. Notably, in Thorne, the pair of elongated legs 400, 410 that the Examiner regarded as the recited arms of the present invention are part of ring/blade shield assembly 310, and are not integral to the separate actuator and blade assembly 320 that the Examiner regarded as including the push- or actuator-button 340. (*See, e.g.*, Figures 22 and 23.) Indeed, the ring/blade shield assembly 310 and the actuator and blade assembly 320 are separate injection molded parts. (Col. 8, lines 1-4.)

Applicant therefore respectfully submits that new dependent claims 13, 14, and 17-19 are also patentable over the applied prior art for the additional features described above.

Specification

Applicant has amended paragraph starting at page 4, line 1 of the present specification to correct the description of the orientation of the return springs 13, 14 with respect to the lower portions of arms 7, 8, as shown, for example, in Figure 1. That paragraph inadvertently described the return springs 13, 14 as parallel to the arms 7, 8, when it should have read perpendicular, as shown in Figure 1 and described in original claim 3 and at page 3, lines 1-2 of the present specification.

Information Disclosure Statement Filed January 23, 2006

Applicant also notes that the Examiner indicated consideration of the two U.S. patent documents listed on the Information Disclosure Citation Form PTO-1449 filed January 23, 2006, but did not acknowledge consideration of the associated International Search Report listed under the "Other Documents" section of that same form. Applicant respectfully requests that the Examiner provide such acknowledgement by initialing the form next to the listed International Search Report and including the fully initialed form in the next communication. For the Examiner's convenience, Applicant has enclosed a copy of the PTO-1449 form with this Amendment.

Serial No.: 10/565,395
Art Unit: 3731
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In view of the foregoing all of the claims in this case are believed to be in condition for allowance. Should the Examiner have any questions or determine that any further action is desirable to place this application in even better condition for issue, the Examiner is encouraged to telephone Applicant's undersigned representative at the number listed below.

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INFORMATION DISCLOSURE CITATION
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Applicant Number

NEW APPLICATION 107585395

Applicant(s)

WLODZIMIERZ RUTYNOWSKI

Filing Date

JANUARY 23, 2006

Group Art Unit

UNKNOWN

3731

U.S. PATENT DOCUMENTS

*EXAMINER INITIAL	REF	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
/L.H./	1	5,356,420	10/18/1994	CZERNECKI ET AL.	606	182	07/26/1993
/L.H./	2	6,053,930	04/25/2000	RUPPERT	606	181	05/11/1998

FOREIGN PATENT DOCUMENTS

	REF	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
							YES	NO

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

		COPY OF INTERNATIONAL SEARCH REPORT

EXAMINER

/Lian Huang/

DATE CONSIDERED

05/20/2008

EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP Section 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.